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PATENT

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant : David Allison Bennett, et al.
Application No.: 09/684,871
Filed : October 6, 2000
Title : APPARATUS, SYSTEMS AND METHODS FOR ONLINE, MULTI-CARRIER, MULTI-SERVICE PARCEL SHIPPING MANAGEMENT FEATURING SHIPPING LOCATION COMPARISON ACROSS MULTIPLE CARRIERS
Technology Center : 3600
Grp./Div. : 3629
Examiner : Plucinski, Jamisue A.
Docket No. : PSTM0003/MRK

Adjustment date: 01/31/2008 SDENB083
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January 28, 2008

APPEAL BRIEF

This is an appeal of an Office Action, dated July 27, 2007, a non-final rejection of all claims currently under examination in the case, namely Claims 1-21.

An Appeal and an Appeal Brief were previously filed in this case.

Prior to any decision by the Board in that Appeal, in the July 27, 2007 Office Action, prosecution of the application was reopened; Applicants were given the option of filing a reply to the Office Action under 37 C.F.R. §1.111 or initiating a new appeal by filing a Notice of Appeal under 37 C.F.R. §41.31 followed by an Appeal Brief under 37 C.F.R. §41.37, and applying the previously paid Notice of Appeal and Appeal Brief fees. Office Action, p. 2.

Further to the options provided in the Office Action, Applicants filed the Notice of Appeal on October 29, 2007 under 37 C.F.R. §41.31(a) with U.S. Express Mail, all claims having been twice rejected, and in accordance with MPEP §1207.04; in accordance with MPEP §1207.04, Applicants requested that the previously paid Notice

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of Appeal Fee be applied to the new Notice of Appeal filed on October 29, 2007. Since filing the original Notice of Appeal and October 29, 2007 Notice of Appeal, there had been an increase of ten (10) dollars in the fee; a check for the amount of the ten (10) dollar difference between the originally paid Notice of Appeal fee and the new Notice of Appeal fee was filed with the Notice of Appeal.

In accordance with MPEP §1207.04, Applicants request that the previously paid Appeal Brief Fee be applied to this new Appeal Brief. Since filing the original Appeal Brief, there has been an increase of ten (10) dollars in the fee; a check including the amount of the ten (10) dollar difference between the originally paid Appeal Brief fee and the new Appeal Brief fee is filed concurrently herewith.

Under 37 CFR §41.37 and in accordance with MPEP §1205.01, the two-month period in which an Appeal Brief could be filed without extension ends on December 29, 2007. A Petition for an Extension of Time for one month and the appropriate fee are filed concurrently herewith to extend the time until January 29, 2008. It is respectfully submitted that this Appeal Brief is timely filed within the one-month extension period because it is filed before the expiration of January 29, 2008.

TABLE OF CONTENTS

REAL PARTIES IN INTEREST	6
RELATED APPEALS AND INTERFERENCES	6
STATUS OF CLAIMS	8
STATUS OF AMENDMENTS	9
SUMMARY OF CLAIMED SUBJECT MATTER	10
GROUND OF REJECTION TO BE REVIEWED ON APPEAL	16
<u>Issue 1 Regarding the Rejection of Independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17, and Therefore Dependent Claims 4-7 and 18-21, Under 35 U.S.C. §103(a) as Unpatentable over Nicholls in View of Kara in further view of InterShipper on the Grounds that the Combination of Nicholls, Kara and InterShipper Render as Obvious the Limitations of The Claims on Appeal of Determining/Identifying Whether Each Carrier of a Plurality of Carriers Would Support Shipping a Particular Parcel From a Default Shipping Location Associated With a Particular User According to Each Carrier's Shipping Location Rules</u>	17
<u>Issue 2 Regarding the Rejection of Independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17, and Therefore Dependent Claims 4-7 and 18-21, Under 35 U.S.C. §103(a) as Unpatentable over Nicholls in View of Kara in further view of InterShipper on the Grounds that the Combination of Nicholls, Kara and InterShipper Render as Obvious the Limitations of The Claims on Appeal of Generating a Simultaneous Online Display of a Plurality of Delivery Services for Each Carrier of a Plurality of Carriers That Would Support Shipping a Particular Parcel From a Default Shipping Location Associated With a Particular User According to Each Carrier's Shipping Location Rules</u>	18
ARGUMENT	19
<u>Issue 1 Argument Regarding the Rejection of Independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17, and Dependent Claims 4-7 and 18-21 Under 35 U.S.C. §103(a) as Unpatentable over Nicholls in View of Kara in further view of InterShipper: There is No Disclosure in Nicholls, Kara or InterShipper of Determining Whether Each Carrier of a Plurality of Carriers Would Support Shipping a Particular Parcel From a Default Shipping Location Associated With a Particular User According to Each Carrier's Shipping Location Rules (37 C.F.R. §41.37(c)(1)(vii) subheading)</u>	19

<u>ISSUE 1A ARGUMENT REGARDING THE REJECTION OF INDEPENDENT CLAIMS 1, 2, 3, 8, 9, 10, 15, 16 AND 17, AND DEPENDENT CLAIMS 4-7 AND 18-21 UNDER 35 U.S.C. §103(A) AS UNPATENTABLE OVER NICHOLLS IN VIEW OF KARA IN FURTHER VIEW OF INTERSHIPPER -- THE CLAIMED TERMS "SHIPPING LOCATION," "DEFAULT SHIPPING LOCATION," AND "DETERMINE ... ACCORDING TO SHIPPING LOCATION RULES" ARE DISTINGUISHED FROM THE VARIOUS SHIPPING FEATURE CONSIDERATIONS AND SHIPPING RATE CALCULATION FACTORS DISCLOSED BY THE REFERENCES OF RECORD (37 C.F.R. §41.37(c)(1)(vii) subheading)</u>	19
<u>ISSUE 1B REGARDING THE REJECTION OF INDEPENDENT CLAIMS 1, 2, 3, 8, 9, 10, 15, 16 AND 17, AND DEPENDENT CLAIMS 4-7 AND 18-21 UNDER 35 U.S.C. §103(A) AS UNPATENTABLE OVER NICHOLLS IN VIEW OF KARA IN FURTHER VIEW OF INTERSHIPPER: THERE IS NO DISCLOSURE IN NICHOLLS, KARA OR INTERSHIPPER OF DETERMINING OR IDENTIFYING EACH CARRIER OF A PLURALITY OF CARRIERS THAT WOULD SUPPORT SHIPPING A PARTICULAR PARCEL FROM A PARTICULAR SHIPPING LOCATION ASSOCIATED WITH A PARTICULAR USER ACCORDING TO EACH CARRIER'S SHIPPING LOCATION RULES(37 C.F.R. §41.37(c)(1)(vii) subheading)</u>	21
<u>Issue 2 Argument Regarding the Rejection of Independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17, and Dependent Claims 4-7 and 18-21 Under 35 U.S.C. §103(a) as Unpatentable over Nicholls in View of Kara in further view of InterShipper: There is No Disclosure in Nicholls, Kara or InterShipper of Generating a Simultaneous Online Display of a Plurality of Delivery Services for Each Carrier of a Plurality of Carriers That Would Support Shipping a Particular Parcel From a Default Shipping Location Associated With a Particular User According to Each Carrier's Shipping Location Rules (37 C.F.R. §41.37(c)(1)(vii) subheading)</u>	27
<u>ISSUE 2A ARGUMENT REGARDING THE REJECTION OF DEPENDENT CLAIMS 7 AND 21 UNDER 35 U.S.C. §103(A) AS UNPATENTABLE OVER NICHOLLS IN VIEW OF KARA IN FURTHER VIEW OF INTERSHIPPER: THERE IS NO DISCLOSURE IN NICHOLLS, KARA OR INTERSHIPPER OF CALCULATING A SHIPPING RATE BY EACH SERVICE OF A PLURALITY OF SERVICES FOR EACH CARRIER OF A PLURALITY OF CARRIERS FOR SHIPPING A PARTICULAR PARCEL ACCORDING TO EACH CARRIER'S SHIPPING LOCATION RULES AND PRICING RULES AS APPLIED TO THE SHIPPING LOCATION OF THE SHIPPING USER (37 C.F.R. §41.37(c)(1)(vii) subheading)</u>	30
<u>ARGUMENT CONCLUSION</u>	31
<u>CLAIMS APPENDIX</u>	32
<u>EVIDENCE APPENDIX</u>	44
<u>Nicholls</u> Reference.....	45
<u>Kara</u> Reference	80
<u>InterShipper</u> Reference	124

RELATED PROCEEDINGS APPENDIX	126
Copy of Notice of Panel Decision from Pre-Appeal Brief Review Regarding Application No. 09/684,871 (PSTM0003/MRK)	127
Copy of the Notice of Panel Decision from Pre-Appeal Brief Review Regarding Application No. 09/685,078 (PSTM0010/MRK)	129
Copy of Notice of Panel Decision from Pre-Appeal Brief Review Regarding Application No. 09/680,654 (PSTM0015/MRK)	131
Copy of the Notice of Panel Decision from Pre-Appeal Brief Review Regarding Application No. 09/685,077 (PSTM0020/MRK)	133
Copy of Notice of Panel Decision from Pre-Appeal Brief Review Regarding Application No. 09/684,861 (PSTM0024/MRK)	135

REAL PARTIES IN INTEREST (37 C.F.R. §41.37(c)(1)(i) heading)

In an Assignment, Inventors David Allison Bennett, William W. Smith, III, and Charles D. Mentzer, assigned the entire right, title and interest in and to the instant application to STAMPS.COM INC., as recorded by the Assignment Division of the United States Patent and Trademark Office on March 9, 2001 on Reel No. 011630 and Frame No. 0178. In a subsequent Intellectual Property Joint Ownership Agreement Notice of Assignment, STAMPS.COM INC. noticed the assignment of an undivided whole interest in common in all rights, title, and interest in and to the present application to both STAMPS.COM INC. and ISHIP INC., as recorded by the Assignment Division of the United States Patent and Trademark Office on March 26, 2004 on Reel No. 014466 and Frame No. 0275. Statements by both STAMPS.COM INC. and ISHIP INC. under 37 C.F.R. §3.73(b) are filed concurrently herewith.

ISHIP INC. is a fully owned subsidiary of UNITED PARCEL SERVICE OF AMERICA, INC., which is a fully owned subsidiary of UNITED PARCEL SERVICE, INC.

Accordingly, STAMPS.COM INC., ISHIP INC., UNITED PARCEL SERVICE OF AMERICA, INC., and UNITED PARCEL SERVICE, INC. are the real parties in interest in this case.

RELATED APPEALS AND INTERFERENCES (37 C.F.R. §41.37(c)(1)(ii) heading)

Applicants previously presented the current claim set to the Board in an Appeal Brief filed on February 13, 2007. As mentioned above, in an Office Action dated July 27, 2007, prosecution of the application was reopened prior to consideration by the Board of the previously filed Appeal; Applicants were given the option of filing a reply to the Office Action under 37 C.F.R. §1.111 or initiating a new appeal by filing a Notice of Appeal under 37 C.F.R. §41.31 followed by an Appeal Brief under 37 C.F.R. §41.37. Office Action, p. 2. Applicants file this new Appeal.

Further, there is an Appeal pending in the case of related U.S. Patent Application No. 09/685,078 (Applicants David Allison Bennett, et al., Filed October 6, 2000; Entitled "Apparatus, Systems and Methods for Online, Multi-Carrier, Multi-Service Parcel Shipping Management Featuring Notification Service Option Comparison for Multiple Carriers"; Attorney Docket No. PSTM0010/MRK; Technology

Center 3600; Group/Div. 3629; Examiner Jamisue A. Plucinski). No opinion has yet been rendered in that case.

Further, there is an Appeal pending in the case of related U.S. Patent Application No. 09/680,654 (Applicants David Allison Bennett, et al., Filed October 6, 2000; Entitled "Apparatus, Systems and Methods for Online, Multi-Carrier, Multi-Service Parcel Shipping Management Featuring Shipping Rate and Delivery Schedule Comparison for Multiple Carriers"; Attorney Docket No. PSTM0015/MRK; Technology Center 3600; Group/Div. 3629; Examiner Jamisue A. Plucinski). No opinion has yet been rendered in that case.

Yet further, there is an Appeal pending in the case of related U.S. Patent Application No. 09/685,077 (Applicants Paul Bilibin, et al., Filed October 6, 2000; Entitled "Apparatus, Systems and Methods for Online, Multi-Carrier, Multi-Service Parcel Shipping Management Determination of Ratable Weight for Multiple Carriers"; Attorney Docket No. PSTM0020/MRK; Technology Center 3600; Group/Div. 3629; Examiner Jamisue A. Plucinski). No opinion has yet been rendered in that case.

Still further, there is an Appeal pending in the case of related U.S. Patent Application No. 09/684,861 (Applicants Bilibin, Paul et al.; Filed October 6, 2000; Entitled "Apparatus, Systems and Methods for Determining Delivery Time Schedules for Each of Multiple Carriers"; Attorney Docket No. PSTM0024/MRK; Technology Center 3600; Group/Div. 3623; Examiner Beth Van Doren). No opinion has yet been rendered in that case.

Further still, there is an Appeal pending in the case of related U.S. Patent Application No. 09/684,866 (Applicants David Allison Bennett, et al., Filed October 6, 2000; Entitled: "Apparatus, Systems and Methods For Online, Multi-Carrier, Multi-Service Parcel Shipping Management"; Attorney Docket No. PSTM0038/MRK; Technology Center 3600; Group/Div. 3629; Examiner Jamisue A. Plucinski). No opinion has yet been rendered in that case.

Prior to filing an Appeal in the case of related co-pending U.S. Patent Application No. 09/684,871 (Attorney Docket No. PSTM0003/MRK), a Pre-Appeal Brief Request for Review was filed for that application. A copy of the Notice of Panel Decision from Pre-

Appeal Brief Request for Review for Application No. 09/684,871 is included in the Related Proceedings Appendix hereto.

Further, prior to filing an Appeal Brief in the case of the above-mentioned Appeal for Application No. 09/685,078 (PSTM0010/MRK), a Pre-Appeal Brief Request for Review was filed for that application. A copy of the Notice of Panel Decision from Pre-Appeal Brief Review for Application No. 09/685,078 is included in the Related Proceedings Appendix hereto.

Yet further, prior to filing an Appeal Brief in the case of the above-mentioned Appeal for Application No. 09/680,654 (Attorney Docket No. PSTM0015/MRK), a Pre-Appeal Brief Request for Review was filed for that application. A copy of the Notice of Panel Decision from Pre-Appeal Brief Review for Application No. 09/680,654 is included in the Related Proceedings Appendix hereto.

Still further, prior to filing an Appeal Brief in the case of the above-mentioned Appeal for Application No. 09/685,077 (PSTM0020/MRK), a Pre-Appeal Brief Request for Review was filed for that application. A copy of the Notice of Panel Decision from Pre-Appeal Brief Review for Application No. 09/685,077 is included in the Related Proceedings Appendix hereto.

Further still, prior to filing an Appeal Brief in the case of the above-mentioned pending Appeal for Application No. 09/684,861 (Attorney Docket No. PSTM0024/MRK), a Pre-Appeal Brief Request for Review was filed for that application. A copy of the Notice of Panel Decision from Pre-Appeal Brief Request for Review for Application No. 09/684,861 is included in the Related Proceedings Appendix hereto.

STATUS OF CLAIMS (37 C.F.R. §41.37(c)(1)(iii) heading)

The present application was filed on October 6, 2000, claiming priority under 37 C.F.R. §1.78(a)(4) to: U.S. Provisional Patent Application Serial No. 60/158,179, filed on October 6, 1999; U.S. Provisional Patent Application Serial No. 60/170,186, filed on December 10, 1999; U.S. Provisional Patent Application Serial No. 60/170,504, filed on December 13, 1999; U.S. Provisional Patent Application Serial No. 60/192,692, filed on March 28, 2000; U.S. Provisional Patent Application Serial No. 60/192,723, filed on March 27, 2000; U.S. Provisional Patent Application Serial No. 60/193,899, filed on

March 31, 2000; and U.S. Provisional Patent Application Serial No. 60/195,748, filed on April 6, 2000.

The status of the Claims is as follows:

Allowed Claims: None.

Cancelled Claims: None.

Withdrawn Claims: In the previous Appeal Brief, Claims 11-14 were withdrawn; Claims 11-14 are hereby withdrawn; in accordance with the Manual of Patent Examining Procedure ("MPEP") §1214.05, cancellation of Claims 11-14 is hereby authorized.

Claims objected to: None.

Rejected Claims: 1-21.

Claims on Appeal: 1-10, and 15-21.

STATUS OF AMENDMENTS (37 C.F.R. §41.37(c)(1)(iv) heading)

No amendments subsequent to the final Office Action, dated August 17, 2006, have been filed. However, as noted above, Claims 11-14 were previously and are hereby withdrawn; in accordance with MPEP §1214.05, cancellation of Claims 11-14 is hereby authorized.

SUMMARY OF CLAIMED SUBJECT MATTER (37 C.F.R. §41.37(c)(1)(v) heading)

The Claims on Appeal are Claims 1-10, and 15-21. Of the Claims on appeal, Claims 1, 2, 3, 8, 9, 10, 15, 16, and 17 are independent. It is respectfully submitted that none of the Claims on appeal are means plus function claims.

In compliance with 37 C.F.R. § 41.37(c)(1)(v), the subject matter of the independent claims on appeal is explained below with citations to the Specification of the present application ("Specification") as disclosed with respect to exemplary embodiments. Unless otherwise specified, citations below to the Specification are to page and line numbers of the application as originally filed.

Claims 1, 8, and 15

Claim 1 is directed to a shipping management computer system that comprises at least one computer device. Claim 8 is directed to a "...method using a computer system for managing shipping of a plurality of parcels shipped by any one carrier of a plurality of carriers, wherein said computer system comprises at least one computer device...." Claim 15 is directed to a "...computer program product embodying computer program instructions for execution by a computer system for managing shipping of a plurality of parcels shipped by any one carrier of a plurality of carriers"

It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claims 1, 8 and 15 are described in the Specification. See, e.g., Specification, Title; Specification, Abstract; Specification, p. 16, lines 10-24 (describing FIG. 4).

Claim 1 further recites that the shipping management computer system is programmed to, among other things, "... receive from each respective user of a plurality of users, a respective input of a set of parcel specifications for shipping a respective particular parcel" Claims 8 and 15 recite similar limitations. It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claims 1, 8 and 15 are described in the Specification. See, e.g., Specification, p. 16, line 10 – p. 17, line 10; Specification, p. 3, lines 14-17; Specification, p. 58, line 26 – p. 59, line 7.

Claim 1 further recites that "... each respective user accesses the shipping

management computer system over a global communications network using a respective user client computer device” Claims 8 and 15 recite similar limitations. It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claims 1, 8 and 15 are described in the Specification. See, e.g., Specification, p. 15, line 26 – p. 16, line 9.

Claim 1 further recites “ ... wherein each respective user client computer device is adapted for communication with the global communications network” Claims 8 and 15 recite similar limitations. It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claims 1, 8 and 15 are described in the Specification. See, e.g., Specification, p. 3, lines 7-9; Specification, p. 12, lines 24-29.

Claim 1 further recites “ ... in response to each respective input, apply a set of carrier-specific shipping location rules for each carrier of a plurality of carriers to a respective default shipping location associated with the respective user and to the set of parcel specifications input by the respective user” Claims 8 and 15 recite similar limitations. It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claims 1, 8 and 15 are described in the Specification. See, e.g., Specification, p. 51, lines 2-8; Specification, p. 51, lines 15-27; Specification, p. 52, lines 22-26.

Claim 1 further recites “ ... for each carrier of the plurality of carriers, determine whether the carrier would support shipping of the particular parcel according to the respective set of shipping location rules for the carrier as applied to the parcel specifications for the particular parcel and the respective default shipping location associated with the respective user” Claims 8 and 15 recite similar limitations. It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claims 1, 8 and 15 are described in the Specification. See, e.g., Specification, p. 3, lines 2-9; Specification, p. 3, lines 18-23; Specification, p. 54, lines 13-20.

Claim 1 further recites “... generate a simultaneous online display of a plurality of delivery services for each carrier of the plurality of carriers that would support shipping of the particular parcel from the respective default shipping location.” Claims 8 and 15

recite similar limitations. It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claims 1, 8 and 15 are described in the Specification. See, e.g., Specification, p. 38, line 3 - p. 39, line 4; Specification, p. 45, line 20 - p. 52, line 17.

Claims 2, 9, and 16

Claim 2 is directed to a shipping management computer system that comprises at least one computer device. Claim 9 is directed to “[a] method using a computer system for managing shipping of a plurality of parcels shipped by any one carrier of a plurality of carriers, wherein said computer system comprises at least one computer device” Claim 16 is directed to “[a] computer program product embodying computer program instructions for execution by a computer system for managing shipping of a plurality of parcels shipped by any one carrier of a plurality of carriers ...”

It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claims 2, 9 and 16 are described in the Specification. See, e.g., Specification, Title; Specification, Abstract; Specification, p. 16, lines 10-24 (describing FIG. 4).

Claim 2 further recites that the shipping management computer system is programmed to, among other things, “... in response to a request by any particular respective user of a plurality of users to ship a particular respective parcel, identify each carrier of a plurality of carriers that would support shipping the particular respective parcel from a respective user-specific default shipping location that is associated with the particular respective user,” Claims 9 and 16 recite similar limitations. It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claims 2, 9 and 16 are described in the Specification. See, e.g., Specification, p. 16, line 10 – p. 17, line 10; Specification, p. 3, lines 14-17; Specification, p. 58, line 26 – p. 59, line 7; See also, e.g., Specification, p. 3, lines 2-9; Specification, p. 3, lines 18-23; Specification, p. 54, lines 13-20.

With regard to the programming of the shipping management computer system recited in Claim 2, Claim 2 further recites, among other things, “...wherein each carrier of a plurality of carriers that would support shipping the particular respective parcel from

the respective user-specific default shipping location is identified according a respective set of shipping location rules for the carrier as applied to the respective default shipping location associated with the respective user,” Claims 9 and 16 recite similar limitations. It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claims 2, 9 and 16 are described in the Specification. See e.g., Specification, p. 3, lines 2-9; Specification, p. 3, lines 18-23; Specification, p. 54, lines 13-20.

Claim 2 further recites that “...each respective user accesses the computer system over a global communications network using a respective client computer device” Claims 9 and 16 recite similar limitations. It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claims 2, 9 and 16 are described in the Specification. See, e.g., Specification, p. 15, line 26 – p. 16, line 9.

Claim 2 further recites “ ... wherein each respective user client computer device is adapted for communication with the global communications network” Claims 9 and 16 recite similar limitations. It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claims 2, 9 and 16 are described in the Specification. See, e.g., Specification, p. 3, lines 7-9; Specification, p. 12, lines 24-29.

Claim 2 further recites “...generate a simultaneous online display comprising an identification of a plurality of delivery services for each carrier of the plurality of carriers that would support shipping of the particular respective parcel from the respective user-specific default shipping location.” Claims 9 and 16 recite similar limitations. It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claims 2, 9 and 16 are described in the Specification. See, e.g., Specification, p. 38, line 3 - p. 39, line 4; Specification, p. 45, line 20 - p. 52, line 17.

Claims 3, 10, and 17

Claim 3 is directed to a shipping management computer system that comprises at least one computer device. Claim 10 is directed to “[a] method using a computer system for managing shipping of a plurality of parcels shipped by any one carrier of a plurality of carriers, wherein said computer system comprises at least one computer

device” Claim 17 is directed to “[a] computer program product embodying computer program instructions for execution by a computer system for managing shipping of a plurality of parcels shipped by any one carrier of a plurality of carriers”

It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claims 3, 10 and 17 are described in the Specification. See, e.g., Specification, Title; Specification, Abstract; Specification, p. 16, lines 10-24 (describing FIG. 4).

Claim 3 further recites that the shipping management computer system is programmed to, among other things, “... collect as a respective default shipping location for a respective particular user of a plurality of users, a user input from the respective particular user of a respective identification of a default shipping location from which respective parcels would be shipped by the respective particular user,” Claims 10 and 17 recite similar limitations. It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claim 3, 10 and 17 are described in the Specification. See, e.g., Specification, p. 3, lines 10-13; Specification, p. 24, line 5 – p. 25, line 3.

Claim 3 further recites that “...each respective particular user accesses the computer system over a global communications network using a respective client computer device” Claims 10 and 17 recite similar limitations. It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claims 3, 10 and 17 are described in the Specification. See, e.g., Specification, p. 15, line 26 – p. 16, line 9.

Claim 3 further recites “ ... wherein each respective user client computer device is adapted for communication with the global communications network” Claims 10 and 17 recite similar limitations. It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claims 3, 10 and 17 are described in the Specification. See, e.g., Specification, p. 3, lines 7-9; Specification, p. 12, lines 24-29.

Claim 3 further recites “ ... store in a database a respective record corresponding to each respective particular user, each said respective record comprising an identifier for the respective particular user, and further comprising the respective identification of

the default shipping location for the respective particular user” Claims 10 and 17 recite similar limitations. It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claims 3, 10 and 17 are described in the Specification. See, e.g., Specification, p. 3, lines 10-13; FIGS. 33a-33b and corresponding description at Specification, p. 42, line 25 – p. 43, line 27; Specification, p. 28, lines 2-15.

Claim 3 further recites that the shipping management computer system is programmed to, among other things, “... for each respective carrier of a plurality of carriers, determine whether the respective carrier would support shipping of a particular parcel according to a respective set of shipping location rules for the respective carrier as applied to the respective default shipping location input by the respective particular user” Claims 10 and 17 recite similar limitations. It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claims 3, 10 and 17 are described in the Specification. See, e.g., Specification, p. 3, lines 2-9; Specification, p. 3, lines 18-23; Specification, p. 54, lines 13-20.

Claim 3 further recites “... generate a simultaneous online display identifying a plurality of delivery services for each respective carrier of the plurality of carriers that would support shipping of the particular parcel from the respective default shipping location.” Claims 10 and 17 recite similar limitations. It is respectfully submitted that various exemplary embodiments of the aforementioned recitations of Claims 3, 10 and 17 are described in the Specification. See, e.g., Specification, p. 38, line 3 - p. 39, line 4; Specification, p. 45, line 20 - p. 52, line 17.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL (37 C.F.R.

§41.37(c)(1)(vi) heading)

In the Office Action, Claims 1-21 were rejected under 35 USC 103(a) as being unpatentable over Nicholls et al. (U.S. Patent No. 5,485,369; "Nicholls") in view of Kara (U.S. Patent No. 6,233,568; "Kara") and in further view of the Newsbytes Article, "Internet Update" ("InterShipper"). For convenient reference, a copy of each of Nicholls, Kara, and InterShipper are included in the Evidence Appendix hereto.

In rejecting the Claims under Appeal, namely, Claims 1-10, and 15-21, the Office Action cites Table II at columns 17 and 18 of Nicholls to support the proposition that Nicholls "... discloses ... instruct[ing] [a] computer to ... collect ... a default location" Office Action, Topic No. 4, p. 3. The Office Action cites column 4, lines 49-55 and column 5, lines 34-40, and columns 25 and 26, line 39 of Nicholls to support the proposition that Nicholls "... us[es] shipping rules to calculate rates for the shipment." Office Action, Topic No. 4, pgs. 3-4. The Office Action posits that "Nicholls discloses using the origin and destination zip codes and zones (column 8, lines 43-55)." Office Action, Topic No. 4, p. 4.

The Office Action concludes that "... Nicholls fails to disclose that for each carrier determining whether the carrier would support the shipping of a particular parcel according to rules, and generating a simultaneous display of rates for multiple carriers for a delivery service." Office Action, Topic No. 5, p. 4. To compensate for the concluded failing of Nicholls, the Office Action takes the position that "Kara discloses simultaneously displaying rates for multiple carriers for a selected delivery service ... and discloses the rates are disclosed for those carriers meeting the desired parameters" Office Action, Topic No. 5, p. 4. The Office Action also asserts that "Kara discloses the use of zones, which are used to calculate postage and whether the service can be used based on those zones" Office Action, Topic No. 8, p. 5. The Office Action further asserts that "...when postage is calculated it is not calculated based on only the destination, but rather the origin to the destination, therefore the origin zone is considered as well and therefore the examiner considers Kara to disclose the limitation [determining or identifying each carrier ... that would support shipping a parcel from a

particular shipping location according to each carrier's shipping location rules].” Office Action, Topic No. 8, p. 5.

In combining Nicholls and Kara, the Office Action finds that “Kara and Nicholls disclose generating an online display of at least one service of a plurality of carriers ...”, but concludes that the combination of the Kara and Nicholls references “... however fails to disclose the simultaneous display of the rates for each carrier for each service.” Office Action, Topic No. 6, p. 4.

To compensate for the above-quoted conclusion in the Office Action that the combination of the Kara and Nicholls references “...fails to disclose the simultaneous display of the rates for each carrier for each service...,” the Office Action cites InterShipper, stating that “InterShipper is an internet, online website, where internet users can enter origin, destination, package weight and dimensions and will be displayed every method possible that you can use to ship your package for all major shippers (See Internet Update Article Page 1, Paragraphs 1-3).” Office Action, Topic No. 6, pgs. 4-5. The Office Action asserts that “[i]t would have been obvious ... to modify Nicholls and Kara to display every method possible to ship a package, as disclosed by InterShipper, in order to find the cheapest shipping rate (See Page 1).” Office Action, Topic No. 6, p. 5.

Issue 1 Regarding the Rejection of Independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17, and Therefore Dependent Claims 4-7 and 18-21, Under 35 U.S.C. §103(a) as Unpatentable over Nicholls in View of Kara in further view of InterShipper on the Grounds that the Combination of Nicholls, Kara and InterShipper Render as Obvious the Limitations of The Claims on Appeal of Determining/Identifying Whether Each Carrier of a Plurality of Carriers Would Support Shipping a Particular Parcel From a Default Shipping Location Associated With a Particular User According to Each Carrier's Shipping Location Rules

Issue 2 Regarding the Rejection of Independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17, and Therefore Dependent Claims 4-7 and 18-21, Under 35 U.S.C. §103(a) as Unpatentable over Nicholls in View of Kara in further view of InterShipper on the Grounds that the Combination of Nicholls, Kara and InterShipper Render as Obvious the Limitations of The Claims on Appeal of Generating a Simultaneous Online Display of a Plurality of Delivery Services for Each Carrier of a Plurality of Carriers That Would Support Shipping a Particular Parcel From a Default Shipping Location Associated With a Particular User According to Each Carrier's Shipping Location Rules

ARGUMENT (37 C.F.R. §41.37(c)(1)(vii) heading)

Issue 1 Argument Regarding the Rejection of Independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17, and Dependent Claims 4-7 and 18-21 Under 35 U.S.C. §103(a) as Unpatentable over Nicholls in View of Kara in further view of InterShipper: There is No Disclosure in Nicholls, Kara or InterShipper of Determining Whether Each Carrier of a Plurality of Carriers Would Support Shipping a Particular Parcel From a Default Shipping Location Associated With a Particular User According to Each Carrier's Shipping Location Rules (37 C.F.R. §41.37(c)(1)(vii) subheading)

It is respectfully asserted, for the reasons given and under the authorities cited below, that none of Nicholls, Kara or InterShipper, whether considered alone or in combination, disclose, anticipate, teach or suggest determin[ing] whether each carrier would (as recited by, e.g., independent Claims 1, 3, 8, 10, 15 and 17), or identify[ing] each carrier that would (as recited by, e.g., independent Claims 2, 9, and 16), support shipping a particular parcel from a particular shipping location according to the respective carrier's shipping location rules, which is claimed in one way or another, by independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17. It is therefore respectfully asserted, for the reasons given and under the authorities cited below, that the rejections of the Claims on Appeal do not meet the requirements for an obviousness rejection under 35 U.S.C. Section 103(a), as those requirements are explained in MPEP §§706.02(j) and MPEP §2143.

ISSUE 1A ARGUMENT REGARDING THE REJECTION OF INDEPENDENT CLAIMS 1, 2, 3, 8, 9, 10, 15, 16 AND 17, AND DEPENDENT CLAIMS 4-7 AND 18-21 UNDER 35 U.S.C. §103(A) AS UNPATENTABLE OVER NICHOLLS IN VIEW OF KARA IN FURTHER VIEW OF INTERSHIPPER -- THE CLAIMED TERMS "SHIPPING LOCATION," "DEFAULT SHIPPING LOCATION," AND "DETERMINE ... ACCORDING TO SHIPPING LOCATION RULES" ARE DISTINGUISHED FROM THE VARIOUS SHIPPING FEATURE CONSIDERATIONS AND SHIPPING RATE CALCULATION FACTORS DISCLOSED BY THE REFERENCES OF RECORD (37 C.F.R. §41.37(c)(1)(vii) subheading)

It is respectfully asserted, for the reasons given and authorities cited below, that the claimed terms "shipping location," "default shipping location," and "determine ... according to shipping location rules for the carrier" are distinguished from the various

shipping feature considerations and shipping rate calculation factors disclosed by the references of record. Moreover, it is respectfully asserted, for the reasons given and the authorities cited below, that the limitations of the Claims on Appeal to determine whether each carrier would (as recited by, e.g., independent Claims 1, 3, 8, 10, 15 and 17), or identify each carrier that would (as recited by, e.g., independent Claims 2, 9, and 16), support shipping a particular parcel from a particular shipping location according to the respective carrier's shipping location rules are patentably distinguished from the references of record.

To ascertain the meaning of the terms "shipping location," "default shipping location," and "determine ... according to [a carrier's] shipping location rules" as those terms are used in the Claims, it is proper to consider the Specification of the present patent application. See, e.g., *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 979, 34 U.S.P.Q.2D (BNA) 1321, 1329 (Fed. Cir. 1995) (*in banc*), *aff'd*, 517 U.S. 370 (1996) ("To ascertain the meaning of claims, we consider three sources: The claims, the specification, and the prosecution history." (citations omitted)).

It is respectfully asserted that, according to the Specification of the present application, the term "shipping location" recited by the independent claims of the Claims on Appeal (namely, by Claims 1-3, 8-10, and 15-17) is properly interpreted to mean a location from which a User will ship a package. See, e.g., *Specification*, p. 24, lines 7-10.

Further, it is further respectfully asserted that, according to the Specification of the present application, the term "default shipping location" recited in some of the Claims on Appeal is properly interpreted to mean "...a default location ... from which the User will typically ship packages" *Specification*, p. 24, lines 7-10.

Still further, it is respectfully asserted that the phrase "determine whether [a carrier] would support shipping [of a particular] parcel ... according to [a carrier's] shipping location rules ... as applied to the parcel specifications for the particular parcel and the respective ... shipping location associated with the ... user" is properly interpreted to mean applying the rules by which a particular Carrier would determine whether or not the particular Carrier would support shipping a particular parcel from a particular user's shipping location and determining whether, according to the application

of the Carriers rules, the Carrier would support shipping the particular parcel from the particular user's shipping location. See, e.g., Specification, p. 2, lines 21-22 ("... Carrier pickup and drop-off shipping location rules can differ by city, state, and zip code and to some extent, parcel specifications for the parcel to be shipped."); Specification, p. 2, lines 23-24 (explaining that, in order to identify whether a particular Carrier would ship a particular parcel from a particular shipping location, a "...Shipper must determine each Carrier's pickup and drop-off shipping location rules for the Shipper's own physical location as applied to the particular parcel to be shipped.")

In light of the above-explained meaning of the claimed terms "shipping location," "default shipping location," and "determine ... according to ...", it is respectfully asserted that a disclosure by a reference of an indication of an identification of delivery services that would support shipping a parcel that does not include consideration of the relevant Carrier's shipping location rules as applied to a particular parcel's specifications and as applied to a particular shipper's shipping location does not disclose, anticipate, teach or suggest the limitations of the Claims on Appeal to determine whether each carrier would (e.g., independent Claims 1, 3, 8, 10, 15 and 17), or identify each carrier that would (e.g., independent Claims 2, 9, and 16), support shipping a particular parcel from a particular shipping location according to the respective carrier's shipping location rules. For the reasons given and the authorities cited below, it is respectfully asserted that the references cited by the Office Action, even when considered in combination, do nothing more than disclose an indication of an identification of delivery services that would support shipping a parcel; they do not disclose, anticipate, teach or suggest consideration of the relevant Carrier's shipping location rules as applied to a particular parcel's specifications and as applied to a particular shipper's shipping location in the manner claimed by the Claims on Appeal.

ISSUE 1B REGARDING THE REJECTION OF INDEPENDENT CLAIMS 1, 2, 3, 8, 9, 10, 15, 16 AND 17, AND DEPENDENT CLAIMS 4-7 AND 18-21 UNDER 35 U.S.C. §103(A) AS UNPATENTABLE OVER NICHOLLS IN VIEW OF KARA IN FURTHER VIEW OF INTERSHIPPER: THERE IS NO DISCLOSURE IN NICHOLLS, KARA OR INTERSHIPPER OF DETERMINING OR IDENTIFYING EACH CARRIER OF A PLURALITY OF CARRIERS THAT WOULD SUPPORT SHIPPING A PARTICULAR PARCEL FROM A PARTICULAR SHIPPING LOCATION ASSOCIATED WITH A

**PARTICULAR USER ACCORDING TO EACH CARRIER'S SHIPPING LOCATION
RULES(37 C.F.R. §41.37(c)(1)(vii) subheading)**

The Office Action asserts that some of the references of record, such as Nicholls, disclose in one form or another, shipment rate calculations that consider in one form or another, zone information. See, e.g., Office Action, Topic No. 4, p. 4. That assertion is not disputed.

The Office Action also asserts that some of the references of record, such as Nicholls, collect a user's return address and/or a destination zone. See, e.g., Office Action, Topic No. 4, p. 4. That assertion is not disputed either.

However, notwithstanding the above-outlined assertions by the Office Action, consideration of zone information in zone-based shipping rate calculations and/or collection of a return address zip code on the one hand, do not in any way disclose, anticipate, teach or suggest determining or identifying carrier support for shipping a particular parcel from a particular shipping location for a particular user according to the respective carrier's shipping location rules, as claimed in one way or another, by independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17 (the "Claims on Appeal") on the other hand.

The Office Action posits that Nicholls "... us[es] shipping rules to calculate rates for the shipment ..." (Office Action, Topic No. 4, p. 3) and that "Nicholls discloses using the origin and destination zip codes and zones (column 8, lines 43-55)." Office Action, Topic No. 4, p. 4. Notably, the disclosure of Nicholls that is relevant to zone-based pricing that is cited in the Office Action for support of the posited use by Nicholls of origin and destination zip codes and zones explains that "[a]djustments may be qualified by *destination* [emphasis added](either zone, postal code or destination country) and by weight range." Nicholls, col. 8, lines 50-52. That is, the cited Nicholls disclosure mentions only *destination* zone, not *origin* zone. Moreover, the cited Nicholls disclosure makes no mention of shipping location, or of applying each carrier's shipping location rules to the parcel specifications for a particular parcel and a particular shipping location.

In order to compare the disclosure of Nicholls to the limitations claimed by the Claims on Appeal regarding applying each carrier's shipping location rules to a

particular parcel and a particular user's shipping location, it is respectfully asserted that the specification of Nicholls is instructive. It is respectfully submitted that Nicholls discloses a "client process" that "... has a preprogrammed set of rules which are reflective of a given shipper's predefined set of shipping requirements. The client process also has a processing means for using the preprogrammed set of rules and using at least a portion of the input information to issue request messages to one or more rate servers and to interpret response messages received from the rate servers in order to provide the output information." Nicholls, col. 2, lines 31-38.

For reasons explained in more detail below, it is respectfully asserted that, in view of the above-quoted disclosure of Nicholls, when read together with other disclosures of Nicholls, the disclosed Nicholls system does not make any determination or identification of each carrier's support for shipping a particular parcel from a particular shipping location according to the respective carrier's shipping location rules, which is claimed, in one way or another, by the Claims on Appeal. Rather, it is respectfully asserted that the above-quoted disclosure of Nicholls, when read together with other disclosures of Nicholls, is evidence that, at most, Nicholls is preprogrammed to observe carrier-specific shipping location rules for a user for which a Nicholls system is installed.

It is respectfully asserted that further evidence that, at most, Nicholls is preprogrammed to observe carrier-specific shipping location rules for a user for which a Nicholls system is installed can be found in the disclosure by Nicholls that "[s]hown in FIG. 4A, the Shipments client accepts user input for routing, rating and documentation of a group of packages comprising a shipment." Nicholls, col. 7, lines 53-55. "Multiple shipper accounts are allowed and the desired account may be selected from the Shipper 'drop-box.'" ¹ Nicholls, col. 7, lines 55-57.

It is respectfully asserted that yet further evidence that, at most, Nicholls is preprogrammed to observe carrier-specific shipping location rules for a user for which a

¹ It is respectfully asserted that the reference in the above-quoted citation from Nicholls to a "Shipper 'drop-box'" refers to the input field labeled "Shipper" shown in FIG. 4A and the associated pull-down menu button -- in a typical online system, clicking a pull-down menu button will cause a pull-down menu to appear -- the reference to the "Shipper 'drop-box'" is respectfully asserted to refer to the pull-down menu associated with the "Shipper" field and is not relevant to a "drop-off" shipping location as described in the Specification of the present application.

Nicholls system is installed can be found in the disclosure by Nicholls under the subtitle “Shipper Maintenance” (Nicholls, cols. 17-18, approximately line 37) and the statements that follow that:

All of these commands deal with the master list of shippers. Clients can access the master list via ENUM. An announcement is sent when any shipper information of any kind changes. This allows other programs to know when they need to do another ENUM – especially if they are storing additional shipper information in parallel with this master list.

Nicholls, cols. 17-18, approximately lines 38-43. Under the above-quoted description of the ENUM command is a listing of data elements for shippers. Included in the listing of shipper data elements is the element named “SHPNA”, described as “name/address.”

Nicholls, cols. 17-18, approximately line 63.

It is respectfully asserted that still further evidence that, at most, Nicholls is preprogrammed to observe carrier-specific shipping location rules for a user for which a Nicholls system is installed can be found in the disclosure by Nicholls that “[t]hese client applications may be customized to conform quite closely to a given shipper’s operation. These client applications call upon the necessary rate servers, as needed, for the appropriate shipping rates and shipping requirements of the selected carrier.” Nicholls, col. 4, lines 58-62.

It is respectfully asserted that the above-quoted disclosures of Nicholls, when read together, are evidence that the system of Nicholls does not make any determination or identification of each carrier’s support for shipping a particular parcel from a particular shipping location, which is claimed, in one way or another, by the Claims on Appeal.

Although not referenced by the Office Action, Kara also discloses zone-based shipping rate considerations. See, e.g., Kara, col. 21, lines 60-67 (explaining that “... zone information may be utilized in determining the availability of a particular delivery service, such as overnight, certified, or the like, available from particular ones of the shipping service providers.”); Kara, col. 22, lines 13-16 (disclosing that the “... program will automatically incorporate the ... parameters – weight, class, zone – in order to correctly calculate the correct postage ...”); Kara, FIG. 7, element 714 (labeled “Zone –

select from box: Local, 1 to 8, Canada, Mexico or International”). It is respectfully asserted that the “Zone” element 714 described in Kara is associated with the destination for a mail piece, as reflected in the description of element 714 in FIG. 7 of Kara (“... Local, 1 to 8, Canada, Mexico or International ...”).

Similar to Nicholls, it is respectfully asserted that in view of the above-quoted disclosures of Kara, the system of Kara does not make any determination or identification of each carrier’s support for shipping a particular parcel from a particular shipping location, which is claimed, in one way or another, by the Claims on Appeal.

InterShipper does not add anything regarding consideration of a default shipping location. InterShipper only states “[s]imply enter your origin, anywhere in the U.S. is OK, and destination, worldwide, along with your package weight and dimensions. The free service will return every method possible that you can use to ship your package ...” InterShipper, p. 1, ¶ 2.

Similar to Nicholls and Kara, it is respectfully asserted that in view of the above-quoted disclosures of InterShipper, the system of InterShipper does not make any determination or identification of each carrier’s support for shipping a particular parcel from a particular shipping location, which is claimed, in one way or another, by the Claims on Appeal.

It is not disputed that a particular shipping location may have a particular address and may be within a particular zone. However, for the reasons outlined below, it is respectfully asserted that the limitation “shipping location” recited by the Claims on Appeal is distinguished from a designation of a zone and from a user’s address, also sometimes referred to as a user’s return address.

The Specification of the present application describes an exemplary embodiment of an input collection screen for collecting a user’s address:

FIG. 12 is a graphic representation depicting an exemplary embodiment of a User address collection screen. As depicted in FIG. 12, the System prompts the User to provide the User’s name 106, e-mail address 107, company name 108, street address 109, floor/room number 110, department name 111, city 112, state 113a (using a pull down menu button 113b), telephone number 114, zip code 115, and fax number 116.

Specification, p. 23, lines 19-23. However, in addition to the user's address, the Specification of the present application also describes exemplary embodiments of a "Shipping Location screen" (as depicted in, e.g., FIGS. 13 and 15 of the present application) in which a user can input a default shipping location from which the user will ship parcels. See Specification, p. 24, lines 5-25.

As compared to zone-based rate calculations as disclosed in Nicholls (and as disclosed in one way or another in Kara) and as posited by the Office Action as rendering the claimed limitations obvious, it is respectfully asserted that the limitations claimed in one way or another by the Claims on Appeal of determining or identifying carriers that would support shipping a particular parcel from a particular shipping location could provide different results than the disclosures of the references of record, and are therefore distinguished from zone-based rate calculations.

As explained in the Specification of the present application, "... Carrier pickup and drop-off shipping location rules can differ by city, state, and zip code and to some extent, parcel specifications for the parcel to be shipped." Specification, p. 2, lines 21-22. In order to identify whether a particular Carrier would ship a particular parcel from a particular shipping location, a "...Shipper must determine each Carrier's pickup and drop-off shipping location rules for the Shipper's own physical location as applied to the particular parcel to be shipped." See Specification, p. 2, lines 23-24.

The Specification of the present application further explains that "...each Carrier's shipment pricing may differ according to shipping location." Specification, p. 2, line 25; Specification, p. 63, lines 11-20 (explained with respect to an exemplary embodiment, "...the System then determines whether the Shipper has requested a "Call for Pickup" shipping location If so, the System accesses the Carrier Database ... to determine whether the particular Carrier/Service supports "Call for Pickup" services ... If the particular Carrier/Service does not support "Call for Pickup" services, [t]hen the particular Carrier/Service is eliminated from the delivery rate set ... and the System proceeds with the next Carrier/Service in the delivery rate set ... If the particular Carrier/Service supports "Call for Pickup" services, the System adds the appropriate charge for the "Call for Pickup" service to each of the particular Carrier/Service's delivery rates").

It is respectfully asserted that although the references of record mention consideration of zone information, there is no mention in any of the references of record of any distinction between Carriers and/or Services as to differences in support, and/or rates, for different shipping locations, including different shipping locations that may exist within a single zone.

For the above-given reasons and authorities, in view of the above-described distinctions between the disclosures of Nicholls, Kara and InterShipper on the one hand, and independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17, and therefore the Claims dependent on independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17, namely, dependent Claims 4-7 and 18-21, it is respectfully requested that the rejection of Claims 1-10 and 15-21 be reversed and that those Claims be allowed.

Issue 2 Argument Regarding the Rejection of Independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17, and Dependent Claims 4-7 and 18-21 Under 35 U.S.C. §103(a) as Unpatentable over Nicholls in View of Kara in further view of InterShipper: There is No Disclosure in Nicholls, Kara or InterShipper of Generating a Simultaneous Online Display of a Plurality of Delivery Services for Each Carrier of a Plurality of Carriers That Would Support Shipping a Particular Parcel From a Default Shipping Location Associated With a Particular User According to Each Carrier's Shipping Location Rules (37 C.F.R. §41.37(c)(1)(vii) subheading)

It is respectfully asserted, for the reasons given and under the authorities cited below, that none of Nicholls, Kara or InterShipper, whether considered alone or in combination, disclose, anticipate, teach or suggest generating a simultaneous online display of, or comprising an identification of, a plurality of delivery services for each carrier of a plurality of carriers that would support shipping of a particular parcel from a default shipping location associated with a particular user of a plurality of users that each access the subject computer system over a global communications network using a user client computer device, which is claimed in one way or another, by independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17. It is therefore respectfully asserted, for the reasons given and under the authorities cited below, that the rejections of the Claims on Appeal do not meet the requirements for an obviousness rejection under 35 U.S.C.

Section 103(a), as those requirements are explained in MPEP §§706.02(j) and MPEP §2143.

The Office Action concedes that neither Nicholls nor Kara disclose generating a simultaneous display of rates for each carrier for each service. Office Action, Topic No. 6, p. 4.

However, in order to support the rejection of independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17, the Office Action relied on InterShipper. Office Action, Topic No. 6, pgs. 4-5 (“InterShipper is an internet, online website, where internet users can enter origin, destination, package weight and dimensions and will be displayed every method possible that you can use to ship your package for all major shippers (See Internet Update Article Page 1, Paragraphs 1-3). ... It would have been obvious ... to modify Nicholls and Kara to display every method possible to ship a package, as disclosed by InterShipper, in order to find the cheapest shipping rate (See Page 1).” Office Action, Topic No. 6, p. 5.

It is respectfully submitted that InterShipper does not state that its display comprises a display of rates for each delivery service offered by each carrier. It is respectfully submitted that the author of the InterShipper article merely describes that the “[t]he free service will return every method possible that you can use to ship your package” InterShipper, p. 1, ¶ 2. However, the author did not state, and the InterShipper article does not disclose, that “every method” means each delivery service offered by each carrier. Further, it is respectfully submitted that there is no evidence that the author of the InterShipper article had any particular expertise in shipping. Therefore, it is respectfully asserted that the InterShipper’s author’s reference to “every method” may have referred to a plurality of carriers.

In view of the failure of the InterShipper article to specifically disclose the limitations of rejected independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17, it is respectfully asserted that the Office Action’s assertion of obviousness of independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17 is a reading influenced by the disclosures of the present application and the rejected independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17. Moreover, it is respectfully asserted that use by the Office Action of the disclosures of the present application and the rejected independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and

17 as a roadmap to support the assertions of obviousness of the rejected Claims is prohibited. *Cf., e.g., In re Mahurkar Patent Litigation*, 831 F. Supp. 1354, 1374-75, 28 U.S.P.Q.2d (BNA) 1801, 1817 (N.D. Ill. 1993), *aff'd*, 71 F.3d 1573, 37 U.S.P.Q.2d 1138 (Fed. Cir. 1995) (Opinion by Judge Easterbrook; "... decomposing an invention into its constituent elements, finding each element in the prior art, and then claiming that it is easy to reassemble these elements into the invention, is a forbidden *ex post* analysis. ... With hindsight the transistor is obvious; but devising the transistor was still a work of genius. An invention lies in a combination of elements that are themselves mundane. 'Virtually all inventions are combinations and virtually all are combinations of old elements.'.....").

Yet further, it is respectfully submitted that InterShipper does not disclose that its display comprises a *simultaneous* display of rates for each delivery service offered by each carrier. Rather, it is respectfully submitted that the author of the InterShipper article merely describes that the "[t]he free service will return every method possible that you can use to ship your package" InterShipper, p. 1, ¶ 2. However, the author did not state, and the InterShipper article does not disclose, that "every method" is displayed simultaneously. Rather, in view of the failure of the InterShipper article to specifically disclose the limitations of rejected independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17, it is respectfully asserted that the Office Action's assertion of obviousness of independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17 is a reading that impermissibly uses the disclosures of the present application and the rejected independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17 as a roadmap. See *In re Mahurkar Patent Litigation*, 831 F. Supp. 1354, 1374-75, 28 U.S.P.Q.2d (BNA) 1801, 1817 (N.D. Ill. 1993), *aff'd*, 71 F.3d 1573, 37 U.S.P.Q.2d 1138 (Fed. Cir. 1995).

Yet further, it is respectfully asserted that providing a comparison display of a plurality of delivery services for each carrier of a plurality of carriers that would support shipping of a particular parcel from a particular shipping location as claimed in one way or another by independent Claims 1-3, 8-10 and 15-17 is distinguished from, is more useful than, and is patentable over, the displays of shipping rates disclosed by the references of record. In particular, as compared to the references of record, various embodiments of the limitations claimed by independent Claims 1-3, 8-10 and 15-17

would provide a comparison display of each delivery service for each carrier that would support shipping a parcel from a shipping location associated with the particular user.

For the above-given reasons and authorities, in view of the above-described distinctions between the disclosures of *Nicholls*, *Kara* and *InterShipper* on the one hand, and independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17, and therefore the Claims dependent on independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17, namely, dependent Claims 4-7 and 18-21, it is respectfully requested that the rejection of Claims 1-10 and 15-21 be reversed and that those Claims be allowed.

ISSUE 2A ARGUMENT REGARDING THE REJECTION OF DEPENDENT CLAIMS 7 AND 21 UNDER 35 U.S.C. §103(A) AS UNPATENTABLE OVER NICHOLLS IN VIEW OF KARA IN FURTHER VIEW OF INTERSHIPPER: THERE IS NO DISCLOSURE IN NICHOLLS, KARA OR INTERSHIPPER OF CALCULATING A SHIPPING RATE BY EACH SERVICE OF A PLURALITY OF SERVICES FOR EACH CARRIER OF A PLURALITY OF CARRIERS FOR SHIPPING A PARTICULAR PARCEL ACCORDING TO EACH CARRIER'S SHIPPING LOCATION RULES AND PRICING RULES AS APPLIED TO THE SHIPPING LOCATION OF THE SHIPPING USER (37 C.F.R. §41.37(c)(1)(vii) subheading)

It is respectfully asserted, for reasons similar to those described above regarding independent Claims 1-3, 8-10 and 15-17, that none of the cited references disclose the limitations recited by dependent Claims 7 and 21.

Specifically, as compared to the above-described absence of any mention in any of the references of record of any distinction between Carriers and/or Services as to differences in support, and/or rates, for different shipping locations, including different shipping locations that may exist within a single zone, dependent Claim 7 recites "... calculate a respective service-specific, carrier-specific shipping rate for shipping the particular parcel for each respective service of a plurality of services offered by each respective carrier of the plurality of carriers, said respective service-specific, carrier-specific shipping rate calculated according to the respective set of shipping location rules for each respective carrier, and according to a respective set of pricing rules for each respective service offered by each respective carrier as applied to the parcel specifications for the particular parcel and the respective default shipping location."

Similarly, as compared to the above-described absence of any mention in any of the references of record of any distinction between Carriers and/or Services as to differences in support, and/or rates, for different shipping locations, including different shipping locations that may exist within a single zone, dependent Claim 21 recites "...calculating a respective service-specific, carrier-specific shipping rate for shipping the particular parcel for each respective service of a plurality of services offered by each respective carrier of the plurality of carriers, said respective service-specific, carrier-specific shipping rate calculated according to the respective set of shipping location rules for each respective carrier, and according to a respective set of pricing rules for each respective service offered by each respective carrier as applied to the parcel specifications for the particular parcel and the respective default shipping location."

For the above-given reasons, in view of the above-described distinctions between the disclosures of Nicholls, Kara and InterShipper on the one hand, and dependent Claims 7 and 21 on the other hand, it is respectfully requested that the rejection of Claims 7 and 21 be reversed and that those Claims be allowed.

ARGUMENT CONCLUSION

For the above-given reasons and authorities, in view of the above-described distinctions between the disclosures of Nicholls, Kara and InterShipper on the one hand, and independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17, and therefore the Claims dependent on independent Claims 1, 2, 3, 8, 9, 10, 15, 16 and 17, namely, dependent Claims 4-7 and 18-21, it is respectfully requested that the rejection of Claims 1-10 and 15-21 be reversed and that those Claims be allowed.

Respectfully submitted,

KHORSANDI PATENT LAW GROUP, ALC

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CLAIMS APPENDIX (37 C.F.R. §41.37(c)(1)(viii) heading)

(Double-Spaced as required by MPEP §1205.02)

THE CLAIMS ON APPEAL ARE THE PENDING CLAIMS AFTER THE AMENDMENT AND RESPONSE FILED OCTOBER 31, 2005 IN RESPONSE TO THE OFFICE ACTION DATED AUGUST 1, 2005, AND ARE AS FOLLOWS:

1. A shipping management computer system, said shipping management computer system comprising at least one computer device, wherein said shipping management computer system is programmed to:

receive from each respective user of a plurality of users, a respective input of a set of parcel specifications for shipping a respective particular parcel, wherein each respective user accesses the shipping management computer system over a global communications network using a respective user client computer device, and wherein each respective user client computer device is adapted for communication with the global communications network;

in response to each respective input, apply a set of carrier-specific shipping location rules for each carrier of a plurality of carriers to a respective default shipping location associated with the respective user and to the set of parcel specifications input by the respective user;

for each carrier of the plurality of carriers, determine whether the carrier would support shipping of the particular parcel according to the respective set of shipping location rules for the carrier as applied to the parcel specifications for the particular

parcel and the respective default shipping location associated with the respective user;
and

generate a simultaneous online display of a plurality of delivery services for each carrier of the plurality of carriers that would support shipping of the particular parcel from the respective default shipping location.

2. A shipping management computer system, said shipping management computer system comprising at least one computer device, wherein said shipping management computer system is programmed to:

in response to a request by any particular respective user of a plurality of users to ship a particular respective parcel, identify each carrier of a plurality of carriers that would support shipping the particular respective parcel from a respective user-specific default shipping location that is associated with the particular respective user, wherein each carrier of a plurality of carriers that would support shipping the particular respective parcel from the respective user-specific default shipping location is identified according a respective set of shipping location rules for the carrier as applied to the respective default shipping location associated with the respective user, wherein each respective user accesses the computer system over a global communications network using a respective client computer device, and wherein each respective user client computer device is adapted for communication with the global communications network;
and

generate a simultaneous online display comprising an identification of a plurality of delivery services for each carrier of the plurality of carriers that would support

shipping of the particular respective parcel from the respective user-specific default shipping location.

3. A shipping management computer system, said shipping management computer system comprising at least one computer device, wherein said shipping management computer system is programmed to:

collect as a respective default shipping location for a respective particular user of a plurality of users, a user input from the respective particular user of a respective identification of a default shipping location from which respective parcels would be shipped by the respective particular user, wherein each respective particular user accesses the computer system over a global communications network using a respective client computer device, and wherein each respective user client computer device is adapted for communication with the global communications network;

store in a database a respective record corresponding to each respective particular user, each said respective record comprising an identifier for the respective particular user, and further comprising the respective identification of the default shipping location for the respective particular user;

for each respective carrier of a plurality of carriers, determine whether the respective carrier would support shipping of a particular parcel according to a respective set of shipping location rules for the respective carrier as applied to the respective default shipping location input by the respective particular user; and

generate a simultaneous online display identifying a plurality of delivery services for each respective carrier of the plurality of carriers that would support shipping of the particular parcel from the respective default shipping location.

4. The shipping management computer system of claim 3, said shipping management computer system further programmed to:

collect as parcel specifications for the particular parcel, user input from the respective particular user, wherein the parcel specifications comprise at least one of: a package type, a set of package dimensions, or a package weight of the particular parcel.

5. The shipping management computer system of claim 4, said shipping management computer system further programmed to:

apply a respective set of shipping location rules for each respective carrier of a plurality of carriers to the respective default shipping location and the parcel specifications, input by the respective particular user.

6. The shipping management computer system of claim 5, said shipping management computer system further programmed to:

for each respective carrier of the plurality of carriers, determine whether the respective carrier would support shipping of the particular parcel according to the respective set of shipping location rules for the respective carrier as applied to the

parcel specifications for the particular parcel and the respective default shipping location input by the respective particular user.

7. The shipping management computer system of claim 6, said shipping management computer system further programmed to:

calculate a respective service-specific, carrier-specific shipping rate for shipping the particular parcel for each respective service of a plurality of services offered by each respective carrier of the plurality of carriers, said respective service-specific, carrier-specific shipping rate calculated according to the respective set of shipping location rules for each respective carrier, and according to a respective set of pricing rules for each respective service offered by each respective carrier as applied to the parcel specifications for the particular parcel and the respective default shipping location.

8. A method using a computer system for managing shipping of a plurality of parcels shipped by any one carrier of a plurality of carriers, wherein said computer system comprises at least one computer device, the method comprising:

receiving from each respective user of a plurality of users, a respective input of a set of parcel specifications for shipping a respective particular parcel, wherein each respective user accesses the shipping management computer system over a global communications network using a respective user client computer device, and wherein each respective user client computer device is adapted for communication with the global communications network;

in response to each respective input, applying a set of carrier-specific shipping

location rules for each carrier of a plurality of carriers to a respective default shipping location associated with the respective user and to the set of parcel specifications input by the respective user;

for each carrier of the plurality of carriers, determining whether the carrier would support shipping of the particular parcel according to the respective set of shipping location rules for the carrier as applied to the parcel specifications for the particular parcel and the respective default shipping location associated with the respective user; and

generating a simultaneous online display of a plurality of delivery services for each carrier of the plurality of carriers that would support shipping of the particular parcel from the respective default shipping location.

9. A method using a computer system for managing shipping of a plurality of parcels shipped by any one carrier of a plurality of carriers, wherein said computer system comprises at least one computer device, the method comprising:

in response to a request by any particular respective user of a plurality of users to ship a particular respective parcel, identifying each carrier of a plurality of carriers that would support shipping the particular respective parcel from a respective user-specific default shipping location that is associated with the particular respective user, wherein each carrier of a plurality of carriers that would support shipping the particular respective parcel from the respective user-specific default shipping location is identified according a respective set of shipping location rules for the carrier as applied to the respective default shipping location associated with the respective user, wherein each

respective user accesses the computer system over a global communications network using a respective client computer device, and wherein each respective user client computer device is adapted for communication with the global communications network; and

generating a simultaneous online display comprising an identification of a plurality of delivery services for each carrier of the plurality of carriers that would support shipping of the particular respective parcel from the respective user-specific default shipping location.

10. A method using a computer system for managing shipping of a plurality of parcels shipped by any one carrier of a plurality of carriers, wherein said computer system comprises at least one computer device, the method comprising:

collecting as a respective default shipping location for a respective particular user of a plurality of users, a user input from the respective particular user of a respective identification of a default shipping location from which respective parcels would be shipped by the respective particular user, wherein each respective particular user accesses the computer system over a global communications network using a respective client computer device, and wherein each respective user client computer device is adapted for communication with the global communications network;

storing in a database a respective record corresponding to each respective particular user, each said respective record comprising an identifier for the respective particular user, and further comprising the respective identification of the default shipping location for the respective particular user;

for each respective carrier of a plurality of carriers, determining whether the respective carrier would support shipping of a particular parcel according to a respective set of shipping location rules for the respective carrier as applied to the respective default shipping location input by the respective particular user; and

generating a simultaneous online display identifying a plurality of delivery services for each respective carrier of the plurality of carriers that would support shipping of the particular parcel from the respective default shipping location.

15. A computer program product embodying computer program instructions for execution by a computer system for managing shipping of a plurality of parcels shipped by any one carrier of a plurality of carriers, the computer program product comprising:

a set of program instructions for receiving from each respective user of a plurality of users, a respective input of a set of parcel specifications for shipping a respective particular parcel, wherein each respective user accesses the shipping management computer system over a global communications network using a respective user client computer device, and wherein each respective user client computer device is adapted for communication with the global communications network;

a set of program instructions for applying, in response to each respective input, a set of carrier-specific shipping location rules for each carrier of a plurality of carriers to a respective default shipping location associated with the respective user and to the set of parcel specifications input by the respective user;

a set of program instructions for determining, for each carrier of the plurality of carriers, whether the carrier would support shipping of the particular parcel according to

the respective set of shipping location rules for the carrier as applied to the parcel specifications for the particular parcel and the respective default shipping location associated with the respective user; and

a set of program instructions for generating a simultaneous online display of a plurality of delivery services for each carrier of the plurality of carriers that would support shipping of the particular parcel from the respective default shipping location.

16. A computer program product embodying computer program instructions for execution by a computer system for managing shipping of a plurality of parcels shipped by any one carrier of a plurality of carriers, the computer program product comprising:

a set of program instructions for identifying, in response to a request by any particular respective user of a plurality of users to ship a particular respective parcel, each carrier of a plurality of carriers that would support shipping the particular respective parcel from a respective user-specific default shipping location that is associated with the particular respective user, wherein each carrier of a plurality of carriers that would support shipping the particular respective parcel from the respective user-specific default shipping location is identified according a respective set of shipping location rules for the carrier as applied to the respective default shipping location associated with the respective user, wherein each respective user accesses the computer system over a global communications network using a respective client computer device, and wherein each respective user client computer device is adapted for communication with the global communications network; and

a set of program instructions for generating a simultaneous online display comprising an identification of a plurality of delivery services for each carrier of the plurality of carriers that would support shipping of the particular respective parcel from the respective user-specific default shipping location.

17. A computer program product embodying computer program instructions for execution by a computer system for managing shipping of a plurality of parcels shipped by any one carrier of a plurality of carriers, the computer program product comprising:

a set of program instructions for collecting as a respective default shipping location for a respective particular user of a plurality of users, a user input from the respective particular user of a respective identification of a default shipping location from which respective parcels would be shipped by the respective particular user, wherein each respective particular user accesses the computer system over a global communications network using a respective client computer device, and wherein each respective user client computer device is adapted for communication with the global communications network;

a set of program instructions for storing in a database a respective record corresponding to each respective particular user, each said respective record comprising an identifier for the respective particular user, and further comprising the respective identification of the default shipping location for the respective particular user;

a set of program instructions for determining, for each respective carrier of a plurality of carriers, whether the respective carrier would support shipping of a particular

parcel according to a respective set of shipping location rules for the respective carrier as applied to the respective default shipping location input by the respective particular user; and

a set of program instructions for generating a simultaneous online display identifying a plurality of delivery services for each respective carrier of the plurality of carriers that would support shipping of the particular parcel from the respective default shipping location.

18. The computer program product of Claim 17, the computer program product further comprising:

a set of program instructions for collecting as parcel specifications for the particular parcel, user input from the respective particular user, wherein the parcel specifications comprise at least one of: a package type, a set of package dimensions, or a package weight of the particular parcel.

19. The computer program product of Claim 18, said computer program product further comprising:

a set of program instructions for applying a respective set of shipping location rules for each respective carrier of a plurality of carriers to the respective default shipping location and the parcel specifications, input by the respective particular user.

20. The computer program product of Claim 19, said computer program product further comprising:

a set of program instructions for determining, for each respective carrier of the plurality of carriers, whether the respective carrier would support shipping of the particular parcel according to the respective set of shipping location rules for the respective carrier as applied to the parcel specifications for the particular parcel and the respective default shipping location input by the respective particular user.

21. The computer program product of Claim 20, said computer program product further comprising:

a set of program instructions for calculating a respective service-specific, carrier-specific shipping rate for shipping the particular parcel for each respective service of a plurality of services offered by each respective carrier of the plurality of carriers, said respective service-specific, carrier-specific shipping rate calculated according to the respective set of shipping location rules for each respective carrier, and according to a respective set of pricing rules for each respective service offered by each respective carrier as applied to the parcel specifications for the particular parcel and the respective default shipping location.

EVIDENCE APPENDIX (37 C.F.R. §41.37(c)(1)(ix) heading)

A copy of Nicholls et al. (U.S. Patent No. 5,485,369; "Nicholls") as relied on in the Office Action dated July 27, 2007 is attached hereto.

A copy of Kara (U.S. Patent No. 6,233,568; "Kara") as relied on in the Office Action dated July 27, 2007 is attached hereto.

A copy of the Newsbytes Article, "Internet Update" ("InterShipper") as relied on in the Office Action dated July 27, 2007 is attached hereto.

Newsbytes

February 18, 1998, Wednesday

Internet Update

LENGTH: 568 words

DATELINE: TOKYO, JAPAN

(NB) -- By Martyn Williams, Newsbytes. This is a roundup of new and updated resources and services on the global Internet including: InterShipper finds cheapest **shipping** rates; NDMA online; electric vehicles ready to roll; computers you used to own; Your Health tackles armchair athletes; InfoSpace launches free real time stock quotes.

InterShipper Finds Cheapest **Shipping** Rates

Internet users can now get **shipping** rates from all major shippers in just a few seconds. Simply enter your origin, anywhere in the U.S. is OK, and destination, worldwide, along with your package weight and dimensions. The free service will return every method possible that you can use to ship your package and arrange the results in cost order, and color code the results by approximate transit time. World Wide Web: <http://www.wwmerchant.com/iship>

NDMA Online

The Nonprescription Drug Manufacturers Association has launched on the Web. It's new site includes information, perspective and background on a wide range of issues involving self-care with nonprescription medicines, including regulatory and legislative initiatives, the process of transferring medicines from prescription to nonprescription status (Rx-to-OTC switch), product labeling, consumer trends and industry self-regulation. World Wide Web: <http://www.ndmainfo.org>

Electric Vehicles Ready To Roll

The day isn't too far off when electric passenger cars will be a reality for many consumers. The EV World Web site takes Toyota's Prius for a test drive, and also has information on electric police bikes, converting a Porsche 924 to electric power, an EV database and more. In addition to the text, the site includes lots of Real Audio and Video. World Wide Web: <http://www.evworld.com>

Computers You Used To Own

The Obsolete Computer Museum is the home of everything that was once great in the world of computing, from Apple's Lisa and the IBM PCjr to the Kaypro II and Tandy TRS-80. Along with each entry, you can usually find images of the machine, information about the basic hardware and more. World Wide Web: <http://ncsc.dni.us/fun/user/tcc/cmuseum/cmuseum.htm>

Your Health Tackles Armchair Athletes

Armchair athletes can take a break from watching the 1998 Olympic Winter Games in Nagano to learn how they can become winners at personal health and fitness. The Your Health Web site is exploring ways to achieve a personal best, with a focus on why exercise is important and how to

improve health through exercise and good nutrition. World Wide Web:
<http://www.yourhealth.com>

InfoSpace Launches Free Real Time Stock Quotes

InfoSpace has become the first Web service to offer real-time stock quotes, free of charge. The real-time quote service is part of a complete investment section featuring stock news, charts, a complete market review, comprehensive company research and SEC filings. World Wide Web:
<http://www.infospace.com>

How Can We Improve?

If you have any ideas about things you want to see in Internet Update please tell us about them. We also accept any criticisms about features and areas we cover now so tell us what's on your mind! Our e-mail address is inbox@newsbytes.com. Internet Update is a daily feature of the Newsbytes News Network.

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(19980218/INTERNETUP2/PHOTO)

TICKER: IBM (NYSE) (53%); IBM (LSE) (53%);

INDUSTRY: NAICS334119 OTHER COMPUTER PERIPHERAL EQUIPMENT MANUFACTURING (53%); NAICS334112 COMPUTER STORAGE DEVICE MANUFACTURING (53%); NAICS334111 ELECTRONIC COMPUTER MANUFACTURING (53%); SIC3577 COMPUTER PERIPHERAL EQUIPMENT, NEC (53%); SIC3572 COMPUTER STORAGE DEVICES (53%); SIC3571 ELECTRONIC COMPUTERS (53%);

ORGANIZATION: NONPRESCRIPTION DRUG MANUFACTURERS ASSOCIATION (90%);

JAPAN (87%); UNITED STATES (79%);

CITY: TOKYO, JAPAN (87%);

COMPANY: INTERNATIONAL BUSINESS MACHINES CORP (53%); INTERNATIONAL BUSINESS MACHINES CORP (53%); VIDEO WORLD (53%); NONPRESCRIPTION DRUG MANUFACTURERS ASSOCIATION (90%);

SUBJECT: ONLINE INTERNET & WWW (91%); OVER-THE-COUNTER DRUGS (90%); ELECTRIC VEHICLES (90%); AUTOMOTIVE TECHNOLOGY (90%); CONSUMER HEALTH INFORMATION (78%); SELF REGULATING ORGANIZATIONS (77%); EXERCISE & FITNESS (77%); MOTOR VEHICLES (77%); OLYMPICS (77%); SPORTS (77%); PHARMACEUTICALS ASSOCIATIONS (77%); PHARMACEUTICALS INDUSTRY (74%); WEB SITES (73%); PRODUCT LABELING (70%); PHARMACEUTICAL PREPARATION MFG (68%); NUTRITION (60%);

LOAD-DATE: July 9, 1998

LANGUAGE: ENGLISH

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Narrow Search: (shipping)



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 49 of 50 



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126

RELATED PROCEEDINGS APPENDIX (37 C.F.R. §41.37(c)(1)(xi) heading)

1. A copy of the Notice of Panel Decision from Pre-Appeal Brief Review indicating that the Final rejection of Application No. 09/684,871 (PSTM0003/MRK) had been withdrawn, and prosecution of the application has been re-opened, is attached hereto.
2. A copy of the Notice of Panel Decision from Pre-Appeal Brief Review, indicating that Application No. 09/685,078 (PSTM0010/MRK) remains on appeal, is attached hereto.
3. A copy of the Notice of Panel Decision from Pre-Appeal Brief Review indicating that Application No. 09/680,654 (Attorney Docket No. PSTM0015/MRK) remains on appeal, is attached hereto.
4. A copy of the Notice of Panel Decision from Pre-Appeal Brief Review, indicating that Application No. 09/685,077 (Attorney Docket No. PSTM0020/MRK) remains on appeal, is attached hereto.
5. A copy of the Notice of Panel Decision from Pre-Appeal Brief Review indicating that Application No. 09/684,861 (Attorney Docket No. PSTM0024/MRK) remains on appeal, is attached hereto.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,871	10/06/2000	David Allison Bennett	PSTM0003/MRK/STM	2829
29524	7590	06/07/2006	EXAMINER	
KHORSANDI PATENT LAW GROUP, A.L.C. 140 S. LAKE., SUITE 312 PASADENA, CA 91101-4710			WEBB, JAMISUE A	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Application Number. 	Application/Control No. 09/684,871	Applicant(s)/Patent under Reexamination BENNETT ET AL.	
	John G. Weiss	Art Unit 3629	
Document Code - AP.PRE.DEC			

Notice of Panel Decision from Pre-Appeal Brief Review



This is in response to the Pre-Appeal Brief Request for Review filed 5/2/06.

1. ☐ **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

- ☐ The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
- ☐ The request does not include reasons why a review is appropriate.
- ☐ A proposed amendment is included with the Pre-Appeal Brief request.
- ☐ Other:

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2. ☐ **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

☐ The panel has determined the status of the claim(s) is as follows:

Claim(s) allowed: _____
 Claim(s) objected to: _____
 Claim(s) rejected: _____
 Claim(s) withdrawn from consideration: _____

3. ☐ **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4. ☒ **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) John G. Weiss

(2) Jami Webb

(3) Dean Nguyen

(4) _____




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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/685,078	10/06/2000	David Allison Bennett	PSTM0010/MRK/STM	3150
29524	7590	07/20/2006	EXAMINER	
KHORSANDI PATENT LAW GROUP, A.L.C. 140 S. LAKE., SUITE 312 PASADENA, CA 91101-4710			WEBB, JAMISUE A	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Application Number 	Application/Control No. 09/685,078	Applicant(s)/Patent under Reexamination BENNETT ET AL.	
	John G. Weiss	Art Unit 3629	
Document Code - AP.PRE.DEC			

Notice of Panel Decision from Pre-Appeal Brief Review



This is in response to the Pre-Appeal Brief Request for Review filed 6/05/06.

1. ☐ **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

- ☐ The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
- ☐ The request does not include reasons why a review is appropriate.
- ☐ A proposed amendment is included with the Pre-Appeal Brief request.
- ☐ Other:

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2. ☒ **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

- ☒ The panel has determined the status of the claim(s) is as follows:
 Claim(s) allowed: _____
 Claim(s) objected to: _____
 Claim(s) rejected: 1-6, 28-33, 49-52 and 58-65.
 Claim(s) withdrawn from consideration: _____

3. ☐ **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4. ☐ **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) John G. Weiss

(2) Jamisia Webb

(3) Dean Nguyen

(4) _____



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/680,654	10/06/2000	David Allison Bennett	PSTM0015/MRK	9943

29524 7590 05/19/2006

KHORSANDI PATENT LAW GROUP, A.L.C.
140 S. LAKE., SUITE 312
PASADENA, CA 91101-4710

EXAMINER


WEBB, JAMISUE A

ART UNIT PAPER NUMBER

3629

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Application Number 	Application/Control No. 09/680,654	Applicant(s)/Patent under Examination BENNETT ET AL.	
	John G. Weiss	Art Unit 3629	
Document Code - AP.PRE.DEC			

Notice of Panel Decision from Pre-Appeal Brief Review



This is in response to the Pre-Appeal Brief Request for Review filed 5/2/06.

1. ☐ **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

- ☐ The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
- ☐ The request does not include reasons why a review is appropriate.
- ☐ A proposed amendment is included with the Pre-Appeal Brief request.
- ☐ Other:

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2. ☒ **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

☒ The panel has determined the status of the claim(s) is as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-21,26-52 and 57-70.

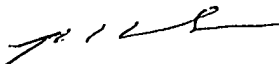
Claim(s) withdrawn from consideration: _____

3. ☐ **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

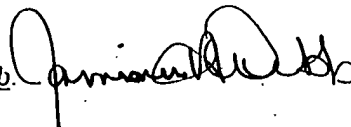
4. ☐ **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) John G. Weiss



(3) Jami Webb



(2) Dean Nguyen



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/685,077	10/06/2000	Paul Bilibin	PSTM0020/MRK/STM	3148
29524	7590	07/21/2006	EXAMINER	
KHORSANDI PATENT LAW GROUP, A.L.C. 140 S. LAKE., SUITE 312 PASADENA, CA 91101-4710			WEIHI, JAMISUE A	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 07/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Application Number 	Application/Control No. 09/685,077 John G. Weiss	Applicant(s)/Patent under Reexamination BILIBIN ET AL. Art Unit 3629	
Document Code - AP.PRE.DEC			

Notice of Panel Decision from Pre-Appeal Brief Review



This is in response to the Pre-Appeal Brief Request for Review filed 6/15/06.

1. ☐ **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

- ☐ The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
- ☐ The request does not include reasons why a review is appropriate.
- ☐ A proposed amendment is included with the Pre-Appeal Brief request.
- ☐ Other:

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2. ☒ **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

☒ The panel has determined the status of the claim(s) is as follows:
 Claim(s) allowed: _____
 Claim(s) objected to: _____
 Claim(s) rejected: 1-7, 58-83.
 Claim(s) withdrawn from consideration: _____

3. ☐ **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4. ☐ **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) John G. Weiss

(2) Dean Nguyen

(3) Jamius Webb

(4) _____



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,861	10/06/2000	Paul Bilibin	PSTM0024/MRK	2827
29524	7590	04/18/2006	EXAMINER	
KHORSANDI PATENT LAW GROUP, A.L.C. 140 S. LAKE., SUITE 312 PASADENA, CA 91101-4710			VAN DOREN, BETH	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Application Number 	Application/Control No. 09/684,861 Beth Van Doren	Applicant(s)/Patent under Reexamination BILIBIN ET AL. Art Unit 3623
Document Code - AP.PRE.DEC		

Notice of Panel Decision from Pre-Appeal Brief Review



This is in response to the Pre-Appeal Brief Request for Review filed 3/20/06.

1. ☐ **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

- ☐ The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
- ☐ The request does not include reasons why a review is appropriate.
- ☐ A proposed amendment is included with the Pre-Appeal Brief request.
- ☐ Other:

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2. ☒ **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

☒ The panel has determined the status of the claim(s) is as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-13 & 15-17 & 19-23.

Claim(s) withdrawn from consideration: _____.

3. ☐ **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4. ☐ **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) Beth Van Doren *lwd*

(2) Susanna Diaz *SD*

(3) Tariq Hafiz *TH*

(4) _____